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per headend. The areas where the Small System Operators have systems with less than 1,000 subscribers have very low density, with an average of less than 38 homes passed per mile as compared with the national average of 77 homes passed per mile. Furthermore, these rural areas have an average of only 23 subscribers per mile. Because they are unable to spread the cost of doing business over a large number of subscribers, per subscriber costs for small systems are much higher than for large ones.

The Commission utterly failed to consider the unique operating circumstances and expenses of small systems in its refusal to grant small systems any meaningful relief from its customer service standards. Even though Congress expressed concern about the imposition of administrative burdens on small systems, 2/ and the FCC acknowledged and even echoed that concern in its *Report and Order* in this proceeding, 3/ the rules adopted by the Commission do not reflect this concern. Instead, the rules apply across the board to all operators, treating the very largest, metropolitan operators the same as rural operators serving sparsely populated areas. The only leeway given to small systems is a provision that permits small systems to seek waiver of the rules on a case-by-case basis, 4/ precisely the scheme that the Coalition of Small System Operators urged the Commission not to adopt

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2/ Cable Television Consumer Protection and Competition Act, Pub. Law No. 102-285, 106 Stat. 1460 (1992), at Section 623(i).

3/ *Implementation of Section 8 of the Cable Television Consumer Protection and Competition Act of 1992, Consumer Protection and Customer Service*, FCC 93-145 (Released April 7, 1993) (the "*Customer Service Report and Order*"), at ¶ 11.

4/ *Id.*

because of the enormous administrative burden associated with pursuing individual waiver requests at the FCC. 5/

The Commission cited the lack of consensus among commenters as one reason why it would not grant small systems meaningful relief from federal customer service requirements. 6/ However, of the comments cited by the Commission to illustrate the lack of consensus about the need for such relief, only one of the commenters was opposed to blanket waivers for small systems. 7/ The other commenters supported waiver of or exemption from the standards for small systems, but could not agree on the definition of "small systems." 8/ The Commission erred in failing to respond to the acknowledged need of small systems to be relieved from administrative burdens when it imposed across the board regulations for systems of all sizes.

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5/ See Reply Comments of Coalition of Small System Operators at 6.

6/ *Customer Service Report and Order* at ¶ 11.

7/ See *id.* at n.16, *citing* Comments of City of St. Louis at 18.

8/ See *Customer Service Report and Order* at n.16, *citing* Viacom Comments at 9-11 (urging partial or total exemptions for systems with less than 15,000 subscribers); National Cable Television Association Comments at 32-33 (supporting exemptions for systems with less than 10,000 subscribers); Coalition of Small System Operators Comments at 2-3 (supporting exemptions for systems with less than 1,000 subscribers); Consortium of Small Systems Comments at 2-4 (supporting exemptions for systems with less than \$7.5 million in gross annual revenues).

**A. Small Systems Should Not Be Arbitrarily Subjected to Customer Service Standards**

Small systems, with less than 1,000 subscribers, 9/ operate with fragile margins and should only be subject to the rigorous customer service standards adopted by the Commission if the imposition of such standards is accomplished in a thoughtful and deliberate manner and after the ramifications of the standards on the system have been carefully considered. If the Commission permits local franchise authorities to impose the new standards across the board on small systems without any prior consultation with the system operator, the system's attempt to comply with the rules could result in rate increases (which could lead to an avalanche of paperwork, including cost-of-service proceedings pursuant to the Commission's new rate regulations), or even system deactivation. In order to avoid these foreseeable problems, the Coalition of Small System Operators urges the Commission to adopt safety-valve procedures to protect small systems from excessive regulations while not unduly impinging on franchise authorities' discretion to enforce the standards in appropriate circumstances.

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9/ The unique characteristics of systems with less than 1,000 subscribers make these systems especially vulnerable to costs and burdens associated with compliance efforts. For example, systems with less than 1,000 subscribers tend to serve less densely populated areas than larger operators, but the cost per mile of building plant is not proportionately lower than for larger operators. The low density of service areas combined with proportionately higher costs means that the typical cost per subscriber for these small systems is higher than for larger, urban systems. Also, small systems are not generally able to take advantage of economies of scale. Finally, waiver requests are not a practical alternative for small system operators because their systems often serve many franchise areas and filing separate waiver requests with the FCC for each franchised area would be an administrative nightmare (not to mention the substantial costs associated with preparation and filing of such requests).

The Coalition of Small System Operators requests the FCC to reconsider its customer service rules and provide two mechanisms for the imposition of federal customer service standards on systems with less than 1,000 subscribers. The federal customer service standards could be imposed on small systems only in two circumstances. First, customer service standards could be imposed by franchise authorities at franchise renewal time. This would give the system operator an opportunity to provide information and answer questions to ensure that the franchise authority fully comprehends the impact that the new regulations would have on the system. Second, the franchise authority could choose, at any point during the franchise term, to provide evidence to the FCC that specific customer service standards are needed based on complaints or other evidence of problems in those particular areas. This, too, would ensure that customer service regulations would not be imposed blindly, without regard to the ramifications of such regulations. Instead, under the proposed approach, regulations would be tailored to address problems and to fit the operations of the regulated system. Adoption of these procedures would prevent the rote application of excessively burdensome regulations by franchise authorities, a danger which is very real, especially among municipal franchise authorities in rural areas where the local regulatory bodies meet irregularly and do not have full-time staffs to evaluate -- much less give thoughtful consideration to -- proposals to enforce cable customer service standards.

**B. CERTAIN CUSTOMER SERVICE STANDARDS ILLUSTRATE THE IMPOSSIBILITY OF COMPLIANCE FOR SMALL OPERATORS**

Certain of the customer service standards pose particular problems for small systems. For example, the requirement that systems maintain "conveniently located" bill payment and customer service locations impacts disproportionately on small systems. Because their per subscriber costs typically greatly exceed those of large systems, and they are generally unable to take advantage of economies of scale available to large systems, small systems must operate in the most efficient manner possible in order to keep costs at a reasonable level. One of the common practices among small system operators is the consolidation of offices and employees into one centralized facility serving a large amount of territory. Although the "conveniently located" standard is ambiguous, the practice of operating from a centrally located office could be prohibited under the new rules. Particularly in view of the pressures imposed by rate regulation, small systems cannot afford to lose the very significant cost savings resulting from the consolidation of offices. If franchise authorities were permitted to require the establishment of local bill payment locations in every village with 50 subscribers, the small system operators simply would not be able to survive.

The new standards for service calls also pose unique problems for small system operators. As described above, small operators often serve large geographic areas from a single, consolidated office. The density of the areas served by small system operators also is generally much lower than the density of metropolitan areas served by large operators. Therefore, even if technicians for small system operators serve the same number of subscribers as technicians for large urban systems, the small systems' subscribers are spread over a much greater area than the large systems' subscribers.

Therefore, it will be much more burdensome for small systems to comply with

unwilling to pay for the unnecessary (and substantial) increases that would be required to support the acquisition of telephone equipment or the hiring of additional personnel. Instead, these small offices would have to be closed and their functions would be consolidated into larger, central offices.

The extreme pressures imposed by rate regulation to keep rates at the lowest possible level on the one hand and the substantial compliance efforts (and costs) required by the new customer service standards on the other hand will catch small systems in the middle. If franchise authorities are permitted to impose automatically the customer service standards on small systems, the systems will face the Hobson's choice of failing to comply with the standards (thereby jeopardizing their franchises) or undergoing an expensive cost-of-service proceeding to justify the rate increases that will be required in order to bring the system into compliance. Moreover, this does not even address the issue of the most important element in every cable system's business: subscribers. It is not fair to make subscribers pay for "improvements" in customer service if they were satisfied with the level of service (and the lower rates) before the new standards were adopted.

In view of the foregoing, the Coalition of Small System Operators requests reconsideration of the Commission's customer service rules, and the implementation of procedures whereby systems with less than 1,000 subscribers would be subject to federal customer service standards only if such standards were negotiated as part of the franchise agreement or if a franchise authority can demonstrate to the FCC that such standards are



appropriate. The Coalition recommends that the customer service rules be changed as follows:

Section 76.309 Customer Service Obligations

(a) A cable franchise authority may enforce the customer service standards set forth in Section (c) of this rule against cable operators, except that such standards may not be enforced against systems with less than 1,000 subscribers unless (i) such standards are negotiated at the time when the franchise agreement (or franchise renewal) is entered; or (ii) the cable franchise authority submits to the FCC written evidence that the imposition of such standards is appropriate based on subscriber complaints or other evidence of customer dissatisfaction, and the FCC issues a determination that its customer service standards should be applied.

Respectfully submitted,

COALITION OF SMALL SYSTEM  
OPERATORS

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